



STATE BOARD OF EQUALIZATION

1020 N STREET, SACRAMENTO, CALIFORNIA
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Executive Secretary

TO COUNTY ASSESSORS,
COUNTY COUNSELS,
ASSESSMENT APPEALS BOARD
AND OTHER INTERESTED PARTIES:

July 26, 1985

NOTICE OF PROPOSED REGULATORY ACTION
BY THE
STATE BOARD OF EQUALIZATION

No. 85/78

RULE 135 - Homeowners' Property Tax Exemption

PUBLIC HEARING: September 11, 1985

NOTICE IS HEREBY GIVEN that the State Board of Equalization, pursuant to the authority vested by Section 15606 of the Government Code, and to implement, interpret, or make specific Sections 218, 218.5, 229, 253.5, 255, 255.1, 255.2, 255.3, 255.6, 255.7, 255.8, 275, 408, 531.1, 531.6, 2190, 2611.5, and 2615.5 of the Revenue and Taxation Code, proposes to amend Rule 135 in Title 18 of the California Administrative Code, relating to property tax.

PUBLIC NOTICE: Notice is further given that a public hearing relevant to this action will be held in Room 102, Consumer Affairs Building, 1020 N Street, Sacramento, California, at 2:00 p.m., on September 11, 1985. Any person interested may present statements or arguments orally or in writing at that time and place.

INFORMATIVE DIGEST: The rule interprets various Revenue and Taxation Code Sections pertaining to Homeowners' Exemption. While some of those sections have been amended or repealed in recent years, the rule has not been amended to reflect those changes. For example, Stats. 1979, Ch. 65, in effect January 1, 1980, amended Section 255.3 to delete the requirement that the assessor annually mail notices concerning ineligibility to homeowners receiving the exemption and added Section 2615.5 to require that such notices accompany tax bills sent to homeowners who have received the exemption. The amendments will conform the rule to sections now in effect.

In addition, the rule sets forth applicable procedures only in instances in which a co-owning occupant is the spouse of the homeowner. The amendments will also set forth applicable procedures in instances in which a co-owning occupant is other than a co-owning occupant spouse.

Finally, the amendments will make statutory reference, technical, and clerical changes to further conform the rule to sections now in effect and to conform the language of the various subdivisions of the rule.

ESTIMATE OF COST OR SAVINGS: The State Board of Equalization has determined that the proposed change does not impose a mandate on local agencies or school districts. Further, the Board has determined that the change will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Section 2231 of the Revenue and Taxation Code, or other nondiscretionary cost or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

The cost impact on private persons or businesses will be insignificant. This proposal will not have a significant adverse economic impact on small businesses.

WRITTEN COMMENTS: Written statements or arguments will be considered by the Board if received by September 11, 1985; they are requested by August 23, 1985. Please send comments to Janice Masterton, Regulation Coordinator, at 1020 N Street, Sacramento, California 95814.

STATEMENT OF REASONS; EXPRESS TERMS; RULEMAKING FILE: The Board has prepared a statement of reasons and a strike-out and underscore version (express terms) of the proposed changes. Both of these documents and all information on which the proposal is based are available to the public upon request. The rulemaking file is available for public inspection at Room 128, 1020 N Street, Sacramento, California.

STAFF MEMORANDA AFTER PUBLIC HEARING OR REVISIONS TO PUBLISHED VERSION OF THE REGULATION: In the event there are any staff memoranda included in the rulemaking file after the close of the public hearing, these memoranda will be available to the public upon request from Mrs. Masterton for a period of 15 days after the public hearing.

In the event there are any revisions sufficiently related to the published version of the rule, these revisions will be available to the public from Mrs. Masterton for a period of 15 days before adoption.

Following the hearing, the State Board of Equalization, upon its own motion, or at the request of any interested person, may in accordance with law adopt the changes proposed without further notice.

<u>INQUIRIES</u>	
<u>CONTENT</u>	<u>HEARING</u>
Questions regarding the content of the regulation should be directed to Gordon P. Adelman, Assistant Executive Secretary, Property Taxes, (916) 445-1516, at 1020 N Street, Sacramento, CA 95814.	Written comments for the Board's consideration or requests to present testimony and bring witnesses to the public hearing should be directed to Janice Masterton, Assistant to Executive Secretary, (916) 445-6479, at the same address.

STATE BOARD OF EQUALIZATION

Douglas D. Bell

Douglas D. Bell
Executive Secretary

Rule No. 135. Homeowners' Property Tax Exemption

(a) EXEMPTION CLAIMS.

(1) DISTRIBUTING FORMS. In addition to the ~~distribution required by subsection (e) of section 255.3 of the Revenue and Taxation Code,~~ mailing forms to persons acquiring title and recording their ownership of their eligible dwellings, the assessor of each county ~~and of each city that independently prepares its local roll~~ shall make available to homeowners during the twelve months preceding the lien date for the next succeeding fiscal year, and the nine months succeeding such lien date, and including December 1 of the fiscal year, forms on which to claim the ~~homeowner's property tax~~ exemption for that fiscal year (1) by providing blank forms at the assessor's office, (2) by distributing supplies of blank forms to places throughout the county to which residents of the county have easy access, or (3) by a combination of these methods. The assessor need not send a new claim form upon transfer of ownership in a property in any instance in which either spouse retains an ownership interest and otherwise continues to qualify for exemption.

(2) WHEN CLAIMS ARE DUE. A claim is timely filed if, on or before the April 15 immediately preceding the start of the fiscal year, it is delivered to the assessor's office or is properly addressed and mailed with postage prepaid. A post office cancellation mark of April 15 or earlier is conclusive evidence of timely filing by mail. The assessor may accept other proof which satisfies him/her that a claim was mailed on or before April 15, provided such proof is offered on or before April 15 of the following year.

A claim is filed late and an exemption of the lesser of 80 percent ~~of the statutory allowance or~~ five thousand six hundred dollars (\$5,600) or 80 percent of the assessed taxable value of the dwelling shall be granted if it the claim is delivered to the assessor's office or is properly addressed and mailed with postage prepaid between April 16 and December 1, inclusive, of the last calendar year in which the claim was due. In determining when a claim is filed, Section 166 of the Revenue and Taxation Code may be applicable in some instances. Section 166 provides that a filing shall be deemed to be timely if it is sent by¹ United States mail, properly addressed with

postage prepaid, and is post marked on or before the required date, or if other proof satisfactory to the assessor establishes that the mailing occurred on or before the required date.

A veteran including a disabled veteran who is filing for the veterans' exemption or disabled veterans' exemption on his/her principal place of residence for the first time or who was granted a veterans' exemption or disabled veterans' exemption on his/her principal place of residence in the immediately preceding year, may make a timely filing for the homeowners' exemption within 15 days after the assessor finds him/her ineligible for the veterans' exemption or disabled veterans' exemption and notifies him/her thereof. ~~Such~~ Those veterans not notified shall have until the next lien date to make a timely filing.

(3) SIGNATURE OF CLAIMANT. The signature of one spouse who is a co-owner co-owning occupant is valid for the other co-owning occupant spouse for the ~~initial~~ year of filing and for subsequent years. The signature of one co-owning occupant (non-spouse) is valid for other co-owning occupants for the year of filing and for subsequent years. The assessor may require the refiling of the claim by the ~~remaining~~ other spouse if the spouse who signed the active claim has died or has established a principal place of residence elsewhere-, but the assessor shall require the refiling of the claim by the other co-owner who has occupied the dwelling continuously if the co-owner (non-spouse) who signed the active claim has died or has established a principal place of residence elsewhere.

If a timely filed claim lacks a signature or any required information, the assessor may, for good cause, grant the claimant a single period of measurable length within which to cure the defect. Such period shall not extend beyond October 15 unless the defect is found and the claimant is notified thereof after July 15, in which event it shall not extend beyond three months of such notification. If a claim is filed late, the assessor may allow the claimant up to six months, or three months after the claimant is notified, whichever is later, to cure the defect.

(4) PROCESSING CLAIMS. When a claim for ~~homeowners'~~ exemption is received, the ~~county~~ assessor shall note thereon the fiscal year to which the initial filing relates and the date of filing. He / SHE shall ascer

(A) Whether the claim was filed within the period prescribed by law;

(B) Whether the claimant was,

1. an owner of record, an owner whose title had not yet been recorded, or a purchaser under a contract of sale of the dwelling identified in the claim; or

2. an owner of shares or a membership interest in a cooperative housing corporation;

(C) Whether more than one claim has been filed on the same dwelling;

~~(D) By such means as the board may prescribe, whether or not on the initial filing or on any other filing in the county, or on a claim which was put to a public hearing and the assessor has determined that the claimant is eligible for the exemption.~~

If the assessor finds the applicant claimant eligible for the exemption for the initial fiscal year claimed, he/she shall enroll it, provided that he/she cannot then allow a veterans' or another homeowners' exemption against an assessment that relates, in its entirety or in part, to the same dwelling unit. He/she shall, however, allow the blind or disabled veterans' exemption on the dwelling unit in place of the homeowners' exemption. If he/she finds that the applicant claimant is not eligible for the initial year claimed, but is or will be eligible for a subsequent year, he/she shall treat the claim as if it had been filed initially for the subsequent year.

(5) NOTICE OF UNAPPROVED CLAIMS. After determining that an application for a homeowners¹ exemption is not approved, the assessor shall notify the applicant claimant of the reason or reasons for nonapproval. Failure to receive such notice shall not entitle the applicant claimant to the homeowners¹ exemption.

(b) NOTICE OF CIRCUMSTANCES OF INELIGIBILITY.

(1) MAILING FORMS. The Notice of Circumstances of Ineligibility ~~required by subsection (b) of section 255.3 of the Revenue and Taxation Code, and~~ required by section 2615.5 of the Revenue and Taxation Code and the Advice of Termination reply form required by subsection (e)(1) of this regulation--shall be in a form prescribed by the board--and shall be are mailed annually by the county with the tax bill or copy thereof.

(2) WHEN ADVICE OF TERMINATION IS DUE. The assessor shall accept a signed Advice of Termination reply form or any signed statement of the claimant, or co-owning spouse, or other co-owner, adequately describing the property for which the homeowners¹ exemption was previously claimed, ~~that it~~ indicating that the property no longer qualifies for the exemption. The statement should state the lien date as of which the claimant no longer claims the exemption; but if it does not, the assessor, if otherwise unable to

ascertain this information from the claimant, shall treat the statement as first applying to the lien date to which the next succeeding fiscal year from the date of filing the statement relates. Such a statement to the assessor shall be known as an "Advice of Termination", which satisfies the duty of the claimant to inform the assessor of ineligibility for the exemption.

An Advice of Termination is ~~considered-to-be~~ timely ~~filed~~
filed on the proper form if, on or before December 10 of
the fiscal year for which the exemption is to be first terminated,
~~if-written-notice-is~~ it is delivered to the assessor's office
or is placed in the mail properly addressed with postage
prepaid. A post office cancellation mark of December 10 or
earlier is conclusive evidence of timely filing by mail. The
assessor may accept other ~~satisfactory~~ proof which satisfies him/her
that an Advice of Termination was mailed on or before December
10, provided such proof is offered on or before December 10
of the following year.

(3) PROCESSING ADVICES OF TERMINATION. When an Advice of Termination is received, the ~~county~~ assessor shall ascertain the fiscal year for which it is first effective. The assessor shall determine that the person signing the advice is the claimant or a co-owning spouse, claimant co-owner or other co-owner, or is otherwise authorized to sign the notice as guardian, administrator, or other legal representative.

(4) TERMINATION. After determining that the Advice of Termination is valid, the assessor shall terminate the exemption and, if the Advice of Termination has not been ~~timely~~
filed by December 10, make an escape assessment including a penalty of 25 percent of the escape value.

(5) **ERRONEOUSLY FILED ADVICE OF TERMINATION.** If an Advice of Termination is filed in error, the assessor shall accept the written request of the person filing it or a co-owning spouse of an owner or co-owner that it be withdrawn and reinstate the exemption provided the request is received on or before March 1 of the next succeeding calendar year following the erroneous filing.

(c) **VERIFICATION OF ELIGIBILITY.**

~~(1) - YEARLY VERIFICATION. - Each year the assessor shall enclose with the Notice of Circumstances of Ineligibility, required to be mailed to claimants designated in subsection (b) of section 531.6 of the Revenue and Taxation Code, an Advice of Termination reply form in an envelope bearing either of the following instructions to the postmaster:~~

~~1. - Do not Forward;~~

~~2. - Address Correction Requested.~~

~~The notice and enclosure shall be sent by first class mail or third class mail with return postage guaranteed to the claimant at the street address given on the claimant's principal place of residence in the homeowners' exemption claim, except that post office box addresses may be used in areas where there are no home deliveries.~~

~~(2) - FURTHER VERIFICATION. - The assessor is justified from the nonreturn of the mailing in assuming that it was received by the claimant and that the failure of the claimant to respond indicates the exemption should be continued. If, however, the postal service returns the mailing of correctly addressed material specified in subsection (b) of this section or forwards it to the addressee and provides the assessor with a new mailing address, the assessor may determine whether suitable means that the exemption should be continued and keep a record of the means employed. Otherwise, he shall terminate the exemption.~~

(3) - **RENTERS' CREDIT.** When either the Franchise Tax Board or the State Board of Equalization notifies an assessor that a claimant whose principal place of residence has qualified as of March 1 of any year for a homeowners' exemption has received the credit for qualified renters under the provisions of the Personal Income Tax Law for the taxable year embracing March 1 of the same year, the assessor shall investigate and, if appropriate, terminate the homeowners' exemption and make an escape assessment under section 531.6 of the Revenue and Taxation Code. If the claimant failed to file timely the Advice of Termination, a 25 percent by December 10, a penalty

of 25 percent of the escape value shall be added to the assessment.

(d) ENTRY ON THE ROLL—IDENTITY OF CLAIMANT. The assessor shall identify the name of each claimant receiving the exemption on the roll or on a subsidiary public record arranged in parcel number order, or in another order, to which the assessor has access for the purpose of verifying the name of the applicant claimant, ~~or a combination of the two.~~

(e) MAINTAINING ASSESSOR'S RECORDS.

(1) ACTIVE CLAIM FILE. The active claim file, which is composed of the claims or a record thereof of properties that received the homeowners' exemption as of the last preceding lien date, shall be kept in current parcel number order, or in another order that permits ready retrieval of a claim or photostatic copy thereof upon audit of the records. Information from a subsequent investigation pursuant to subsections (c) ~~(c), (d), (e), or (f)~~ of this section shall be indicated on the claim or in other records.

The assessor shall compare each copy of a document transferring ownership to real property, received pursuant to section 253.7 of the Revenue and Taxation Code, with the active claim file. When this comparison discloses the transfer of an eligible dwelling, the assessor shall:

(A) ~~Delete~~ Retain the reference to the property ~~from~~ in the active claim file where the new owner was also a previous co-owning occupant spouse who did not sign the claim but continues to be an owner or where a co-owning occupant who filed a separate claim continues to be an owner, or

(B) ~~Mail~~ Delete the reference to the property from the active claim file and mail a homeowners' exemption claim form to the new owner, as required by subsection-(e)-of section 255.3 of the Revenue and Taxation Code.

(2) INACTIVE CLAIM FILE. The inactive claims or a photostatic record thereof shall be kept according to the last year the claim was allowed and arranged within a year's group in parcel number order, or in another order that permits ready retrieval of information respecting a claim upon audit of the records. Documents such as the Advice of Termination, ~~evidence that terminating notice was properly mailed to the owner~~ and information from a subsequent investigation pursuant to subsection (c) ~~(2)-(4)~~ or (h) of this section shall be attached to the claim or shall be kept in another order that permits ready retrieval upon audit.

(3) CLAIM NOT OPEN TO PUBLIC INSPECTION. Homeowners' exemption claims, Advices of Termination, and related homeowners' exemption records containing social security numbers of claimants, both past and present, are no longer not public documents and shall not be open to public inspection.

(4) DESTRUCTION OF RECORDS. Claims, Advices of Termination, and other records required in the administration of the ~~homeowners'~~ exemption may be destroyed seven years after the lien date for the last year for which the ~~homeowners'~~ exemption claim was active, provided that when such documents have been microfilmed, the originals may be destroyed three years after the lien date for the tax year for which they were received or made by the assessor.

(f) COOPERATIVE HOUSING CORPORATIONS. Annually prior to March 1 the assessor shall request on a form prescribed by the Board from every cooperative housing corporation containing dwelling units eligible for the ~~homeowners'~~ exemption (1) a list of owners of shares or memberships entitling them to occupancy of a particular dwelling unit and (2) the apartment numbers or other designations of the dwelling units they are entitled to occupy as shown on the corporate shareholder or membership record for the lien date of the current year. The list shall also indicate which of the shareholders or members resided on the lien date in the designated dwelling units. The assessor shall compare this list with a similar list from the preceding lien date and determine:

1. Those dwelling units in which a newly listed shareholder or member is indicated to be residing on the lien date;

2. Those dwelling units in which a previously listed shareholder or member, who was also indicated to have been a resident, no longer is listed as a shareholder or member or, although so listed, no longer is indicated to be a resident.

With respect to the dwelling units in the first category, the assessor shall provide a claim form for the newly listed shareholders or members by April 1. With respect to dwelling units in the second category the assessor shall investigate to determine whether an active claim by the former shareholder or member in residence should be terminated.

If a cooperative housing corporation fails to respond to the assessor's request by March 15, the assessor immediately shall obtain the information requested by other suitable means and mail claim forms to new shareholders or members by April 1.

References: Sections 218, 218.5, 229, 253.5, 255, 255.1, 255.2, 255.3, 255.6, 255.7, 255.8, 275, 408, 531.1, 531.6, 2190, 2611.5, 2615.5, Revenue and Taxation Code.